

(2021) 12 J&K CK 0023
In the Jammu And Kashmir High Court
Case No : Writ Petition (C) No. 2765 Of 2021

Sham Lal

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 17-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 300A

Citation : (2021) 12 J&K CK 0023

Hon'ble Judges : Pankaj Mithal, CJ;Javed Iqbal Wani, J

Bench : Division Bench

Advocate : Aditya Sharma

Final Decision : Disposed Of

Judgement

1. The dispute is in connection with the land comprising in Khasra No.1586 measuring 31 Kanals 2 Marlas situate in Village Saleri Kangri, Tehsil Beripattan Sundarbani, District Rajouri.
2. The petitioner had previously filed a writ petition seeking a direction that since it is his private land, he cannot be dispossessed from the same without resorting to the procedure prescribed under law.
3. Accordingly, the Court observing that right to property is a constitutional right under Article 300 A of the Constitution of India disposed of the petition with the direction to the State authorities not to interfere and dispossess the petitioner from the land in dispute without following the procedure as may be laid down in law.
4. After the aforesaid order was passed, the Tehsildar Beripattan is said to have issued a notice dated 30.10.2021 directing the petitioner to vacate the house constructed over the land and in case he fails to do so, action as warranted under law shall be taken against him.
5. The substance of the aforesaid notice is that the petitioner is the encroacher of

the said land and he should immediately vacate it.

6. In challenging the aforesaid notice, the submission of Sh. Aditya Sharma, learned counsel for the petitioner is that no notice or opportunity of hearing was given to him before holding that petitioner is an encroacher and he is liable to be evicted from the house constructed over the land.

7. It is also not clear under what provision of law the respondents have initiated the above proceedings.

8. No one has appeared for either of the respondents.

9. In view of the aforesaid facts and circumstances, we are of the opinion that there is no purpose in keeping the matter pending and we dispose of the writ petition with the direction that the petitioner shall file objections/reply to the above notice dated 30.10.2021 before the respondents within a period of two weeks from today showing that he is not an encroacher or an unauthorized occupant and he is not liable to be evicted or dispossessed from the said land.

10. In case, the petitioner files objections as aforesaid, the respondent no.4-Tehsildar Beripattan would consider the same and pass a speaking order regarding the rights of the petitioner, as expeditiously as possible, preferably within a period of six weeks.

11. In case, the objections are filed by the petitioner, till they are considered, the respondents shall not initiate any coercive method to dispossess the petitioner from the land/house in question pursuant to the above referred notice.

12. The petition is disposed of.